

UNITED STATES DISTRICT COURT  
for the  
Eastern District of Wisconsin

In the Matter of the Search of:

the person of Brandon J. Mickey (DOB XX/XX/1995)

Case No. 16-899M (NJ)

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

the person of Brandon J. Mickey (DOB XX/XX/1995)

located in the Eastern District of Wisconsin, there is now concealed:

Saliva and epithelial cells to be taken via a buccal swab.

The basis for the search under Fed. R. Crim P. 41(c) is:

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of: Title 18, United States Code, Sections 924(c) and 1951.

The application is based on these facts: See attached affidavit.

- ☐ Delayed notice of \_\_\_\_\_ days (give exact ending date if more than 30 days: \_\_\_\_\_) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

  
Applicant's signature

Special Agent Benjamin Hruz, FBI  
Printed Name and Title

Sworn to before me and signed in my presence:

Date: August 15, 2016

  
Judge's signature

City and State: Milwaukee, Wisconsin

Honorable Nancy Joseph, U.S. Magistrate Judge

**AFFIDAVIT IN SUPPORT OF  
AN APPLICATION FOR SEARCH WARRANTS**

I, Benjamin Hruz, being first duly sworn, hereby depose and state as follows:

**I. INTRODUCTION AND AGENT BACKGROUND**

1. I have been a Special Agent of the FBI for over nineteen (19) years. I am currently assigned to the Milwaukee Office of the FBI. I have participated in numerous armed bank robbery and commercial robbery investigations in violation of Title 18, United States Code, Sections 924(c), 1951, and 2113, and other related offenses. I have also received formal training regarding the same.

2. This affidavit is based upon my personal knowledge and information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. This affidavit is based upon information provided by other law enforcement officers' police reports, cooperating citizen witnesses' statements, surveillance video footage, DNA Analysis, and other information whose reliability is established separately herein.

3. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant to collect an oral swab of DNA from BRANDON J. MICKEY (DOB XX/XX/1995) and JAMES A. SCOTT (DOB XX/XX/1984).

4. Since this affidavit is only for the limited purpose of securing search warrants, I have not set forth each and every fact known to me concerning this investigation. I have included what I believe are facts sufficient to establish probable cause for the warrants sought.

**II. PROBABLE CAUSE**

5. On May 29, 2016, at approximately 9:02 p.m., a robbery occurred at the Speedway Gas Station, 5712 W. Burnham St., West Allis, which is located in the State and Eastern District

of Wisconsin. The Speedway Gas Station is a business that is engaged in interstate commerce and the robbery that took place on May 29, 2016, impacted the business' ability to further engage in such commerce. During this robbery, Speedway Gas Station employee E.C. stated that she was at the cash register for the business when she observed two subjects enter the store, approach her work area, and demand money. E.C. stated that one of the subjects had in his left hand a black handgun. This individual was described as being a black male, around six feet tall, wearing a flat brim Chicago Bulls hat, a black zip-up sweatshirt with "PO" in white lettering on the right side and "NY" in red lettering on the left side. The subject was also wearing blue latex gloves. While the subject with the gun was in front of her, the second subject removed U.S. currency from her drawer. The second subject was described as being a black male, around six feet tall, wearing a white cloth over his face, a light gray hooded sweatshirt, and blue latex gloves.

6. Also during this robbery, employee E.A. stated that when the subject initially came into the store, she was working a small distance from the cash register and did not notice them come in. E.A. stated that fellow employee E.C. called out to her to come behind the counter. Once E.A. turned around, she saw two individuals wearing hooded sweatshirts standing at the counter by E.C. E.A. saw that the one subject who was wearing the dark colored sweatshirt was holding a black semi-automatic handgun in his left hand. E.A. also saw that the second subject wearing the lighter colored sweatshirt was digging into the cash register. E.A. saw that both of the subjects were wearing blue latex gloves. E.A. went over to the counter and used a set of keys to open her cash register for the male in the grey sweatshirt to take all of the money out of. E.A. stated that the subject with the handgun never crossed over the counter but helped grab money out of the register because the subject in the grey sweatshirt was taking too long. E.A. advised that both of

the subjects were black males. After obtaining U.S. currency from the drawers, both of the subjects exited the store.

7. The above-mentioned robbery was captured on the store's video surveillance system and the actions of both of the subjects as well as their respective descriptions is consistent with the information provided by both of the victim employees. An audit of the loss suffered by the business as a result of the robbery was conducted and it was determined that approximately \$374 in U.S. currency was stolen.

8. Witness B.S. was interviewed shortly after the robbery and told investigators that around the time of the robbery, he was walking along W. Beloit Rd. near S. 52<sup>nd</sup> St. B.S. told the investigators that while walking, he observed a black sweatshirt laying in the middle of the road at W. Beloit Rd. and S. 51<sup>st</sup> St., and a gray sweatshirt laying in the road at S. 53<sup>rd</sup> St. and W. Beloit Rd. Both of these clothing items were collected by the investigators. It was determined that the letter "PO" and "NY" were sewn across the front of the sweatshirt, and both sweatshirts appeared consistent with the robbery subjects' sweatshirts.

9. Witness T.L. was interviewed shortly after the robbery and he told investigators that around the time of the robbery, he was driving eastbound on W. Burnham Avenue when he observed two black male individuals running into the tree line in the West Milwaukee Park, which is located in the 5200 block of W. Burnham Avenue. A perimeter was established in the area, but law enforcement was unable to apprehend the suspects.

10. Shortly after the robbery, Police Officer Eric French of the West Milwaukee Police Department was providing assistance to the West Allis Police Department regarding the aforementioned robbery. During the course of his investigation, Officer French located four blue latex gloves that were located in the 5100 block of W. Beloit Rd. The location of these gloves was

determined to be consistent with the flight path of the subjects as they were observed fleeing from the robbery location.

11. The blue latex gloves were collected as evidence, inventoried, and sent to the State of Wisconsin Crime Laboratory for analysis. On or around July 20, 2016, the West Allis Police Department was notified by the State of Wisconsin Crime Lab that DNA profiles had been developed on two of the blue latex gloves that they had submitted reference the May 29, 2016 robbery of the Speedway Gas Station. Each of the DNA profiles matched DNA profiles for Wisconsin Offenders in the Offender Index (database). One of the DNA profiles matched that of the DNA profile belonging to BRANDON J. MICKEY (DOB XX/XX/1995). The other DNA profile matched that of the DNA profile of JAMES A. SCOTT (DOB XX/XX/1984). MICKEY's and SCOTT's physical characteristics are consistent with the characteristics of the two Speedway robbery suspects. Moreover, based on robbery investigations in related cases, law enforcement is aware that MICKEY is known to brandish firearms using his left hand.

12. On April 22, 2016, at approximately 3:45 p.m., a robbery occurred at the Foot Locker Store located at 339 W. North Avenue, in Milwaukee, Wisconsin. A black male suspect entered the business and brandished a firearm in his left hand. He was wearing red Nike brand shoes with white soles. He pointed the firearm at the two employees and demanded that the employees open the cash register. He stole \$1,342 in U.S. currency and fled the business. One of the victim employees observed the suspect enter the passenger side of a red Oldsmobile Alero that was parked facing south on the east side of the 2200 block of N. 4<sup>th</sup> Street. The victim observed that the Oldsmobile had a spoiler and a license plate cover on the rear of the Oldsmobile Alero that was either tinted or dirty. Upon the suspect entering the vehicle, the vehicle fled southbound and went through a stop sign without stopping.

13. A couple hours after the robbery, at 6:37 p.m., officers on bicycle patrol observed a red Oldsmobile Alero parked at on N. 28<sup>th</sup> Street in Milwaukee. Upon making contact with the three occupants, law enforcement observed an open bottle of intoxicants inside the vehicle. The rear passenger provided law enforcement with the name "Brandon Brown." He was later identified as BRANDON J. MICKEY. The other occupants were identified as James A. SCOTT and Keith F. JONES (DOB XX/XX/1979). At some point during the encounter, MICKEY ran from the officers, but was subsequently apprehended.

14. Law enforcement conducted a photo line-up with the victims. One of the victims identified MICKEY as the robbery suspect with 75-80% positivity. The other victim identified MICKEY as the robbery suspect with 40% positivity.

15. To confirm the DNA matches discussed above, the Crime Lab needs a DNA standard samples from BRANDON J. MICKEY (DOB XX/XX/1995) and JAMES A. SCOTT (DOB XX/XX/1984).

16. MICKEY and SCOTT are currently charged federally in a Criminal Complaint with Hobbs Act robbery, in violation of Title 18, United States Code, Section 1951, and use of a firearm during a crime of violence, in violation of Title 18, United States Code, Section 924(c). *See* Case No. 16-893M is currently in custody at the Milwaukee County Justice Facility and SCOTT is currently in custody with the Wisconsin House of Corrections.

### **III. CONCLUSION**

17. Based on my training and experience, I know that by comparing the DNA collected from distinct items believed to be worn, touched, or held in connection with the robbery with the standard samples of DNA of the suspected robbers, it is possible to determine whether an individual suspected of robbery is likely to be the person who was involved in the robbery. Based

upon the aforementioned, I believe that by taking an oral swab of the inside of BRANDON J. MICKEY'S and JAMES A SCOTT'S cheeks, there can now be found evidence of the crime of robbery including: DNA matching that of DNA samples obtained from recovered blue latex-type gloves and other recovered evidence.